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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services



FILE:

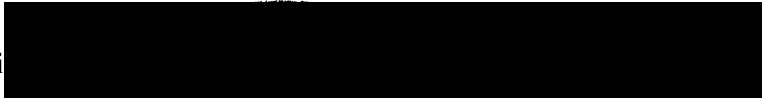


OFFICE: HOUSTON Date:

SEP 23 2004

IN RE:

Obligor:
Bonded Ali



IMMIGRATION BOND:

Bond Conditioned for Voluntary Departure under § 240B of the Immigration
and Nationality Act, 8 U.S.C. § 1229c

ON BEHALF OF OBLIGOR: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Mari Johnson

for

Robert P. Wiemann, Director
Administrative Appeals Office

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Identifying data deleted to
prevent identity unwarranted
invasion of personal privacy

DISCUSSION: The voluntary departure bond in this matter was declared breached by the Field Office Director, Detention and Removal, Houston, Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on June 3, 2003, the obligor posted a \$500.00 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated May 27, 2003, was issued granting the alien voluntary departure in lieu of removal on or before July 26, 2003. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On January 20, 2004, the BIA dismissed the appeal. On May 26, 2004, the field office director concluded the bond had been breached.

On appeal, the applicant asserts that he has a pending application for stay of deportation or removal along with an application for reinstatement of his nonimmigrant visa before the Houston District Office.

Regulations at 8 C.F.R. § 1003.2(f) and § 1003.23(b)(1)(v) provide in part that a filing of a motion to reopen or a motion to reconsider shall not stay the execution of any decision made in the case. Execution of such decision shall proceed unless a stay of execution is specifically granted by the BIA, the IJ, or an authorized ICE officer. Further, the alien's request for reinstatement of his nonimmigrant visa does not stay the removal proceedings. The obligor provided no evidence that a stay of removal was granted by the BIA, IJ or authorized ICE officer.

The regulation at 8 C.F.R. § 1240.26(c)(3) provides that in order for the voluntary departure bond to be cancelled, the alien must provide proof of departure to the field office director.

No satisfactory evidence has been introduced into the record to establish the alien made a timely departure. The service of a notice to surrender or the presence of a certified mail receipt is not required in voluntary departure bond proceedings.

Voluntary departure bonds are exacted to ensure that aliens will depart when required in lieu of removal. Such bonds are necessary in order for Immigration and Customs Enforcement (ICE) to function in an orderly manner. After a careful review of the record, it is concluded that the alien failed to depart by the stipulated time, the conditions of the bond have been substantially violated, and the collateral has been forfeited. The decision of the field office director will not be disturbed.

ORDER: The appeal is dismissed.